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11
12 IN THE UNITED STATES DISTRICT COURT FOR THE
13 DISTRICT OF NEVADA

14 CAPITAL ONE, NATIONAL)
ASSOCIATION, a national banking) Case No. 2:17-cv-00604-RFB-VCF
15 association,) *consolidated with*
Plaintiff,) Case No. 2:17-cv-00916-KJD-CWH

16 v.)
17) JOINT MOTION TO STAY CASE
SFR INVESTMENTS POOL 1, LLC, a) DEADLINES IN LIGHT OF POTENTIAL
18 Nevada limited liability company; and) SETTLEMENT AND [Proposed] ORDER
ANTHEM COUNTRY CLUB COMMUNITY,) (First Request)
19 ASSOCIATION, a Nevada nonprofit)
corporation,)
20 Defendants.)

21)
22 SFR INVESTMENTS POOL 1, LLC, a)
Nevada limited liability company,)
23 Counterclaimant/Crossclaimant,)
24)
25)

1)
2 v.)
3 CAPITAL ONE, NATIONAL)
4 ASSOCIATION, a national banking)
Association; LEON BENZER, an individual;)
5 UNITED STATES OF AMERICA)

6)
7 Cross-Defendants,)
8 Counter-Defendants.)
9)

10)
11 UNITED STATES OF AMERICA,)
12)

13 Plaintiff,)
14)

15 v.)
16)
17 LEON BENZER;)
18 SFR INVESTMENTS POOL 1, LLC;)
19 CAPITAL ONE, N.A.,)
20 ANTHEM COUNTRY CLUB)
21 COMMUNITY ASSOCIATION;)
22 STAR INSURANCE COMPANY;)
23 AMERICAN EXPRESS BANK FSB; and)
24 REPUBLIC SILVER STATE DISPOSAL INC.,)

25 Defendants.)
26)

27)
28 CAPITAL ONE, NATIONAL ASSOCIATION,)
29 a national banking association,)

30 Counter-Claimant/Cross-Claimant,)
31)

32 v.)
33)
34 UNITED STATES OF AMERICA;)
35 LEON BENZER, an individual;)
36 SFR INVESTMENTS POOL 1, LLC,)
37 a Nevada limited liability company; and)
38 ANTHEM COUNTRY CLUB)
39 ASSOCIATION, a Nevada corporation,)
40)

41 Counter-Defendant/Cross-Defendants.)
42)

1 The United States of America, Capital One, N.A. (“Capital One”), SFR Investments Pool
2 1, LLC (“SFR”), and Anthem Country Club Association (“Anthem”), collectively, “the parties”
3 hereby request that the Court stay the proceedings, including all current deadlines, for thirty (30)
4 days in light of a potential settlement for some or all of the claims.¹ In support of their request,
5 the parties submit the following:

6 1. The current relevant deadlines are as follows (per ECF No. 78 at 3-4):

7 *Discovery Cutoff Date:* April 27, 2018;

8 *Initial Dispositive Motion Deadline:* May 28, 2018; and

9 *Joint Pretrial Order Deadline:* June 27, 2018. However, pursuant to LR 26-1(b)(5), if
10 the parties file dispositive motions the joint pretrial order will be due within 30 days after the last
11 decision on any dispositive motions.

12 2. This case concerns competing claims to the same piece of real property. The
13 parties had previously requested an extension of the case deadlines in part to allow newly added
14 defendants to be served, and to facilitate discovery after the two underlying cases were
15 consolidated. (*See* ECF No. 78). The parties have been actively participating in written
16 discovery and document productions, and have noticed at least four depositions amongst them.

17 3. The parties have also been discussing possible resolution of some or all of their
18 competing claims. Such resolution may involve one or more parties disclaiming an interest in
19 the property, and/or agreements between two or more of the parties as to the priority of their
20 _____

21 ¹ Defendant Leon Benzer has not appeared, and the Clerk of Court has noted his default. (*See*
22 ECF No. 56). Defendants Star Insurance Company, American Express Bank FSB, and Republic
23 Silver State Disposal Inc. were named in the United States’ recent Amended Complaint, and
24 have not yet appeared.
25

1 respective claims or liens. The parties believe they can reach a stipulation as to at least some of
2 the claims, but given that there are two consolidated cases, four parties that have appeared to
3 date, and various claims, counter- and cross-claims, it will take some time to reduce such
4 agreements to writing and to obtain approval from all parties and the Court.

5 4. However, given the April 27, 2018, discovery deadline, the parties will be
6 required to continue discovery and conduct depositions that may ultimately prove unnecessary.
7 Moreover, both SFR and Capital One have noticed depositions of a witness for the United States
8 under Fed. R. Civ. P. 30(b)(6). The United States has objected to the proposed topics, and while
9 the parties are attempting to negotiate in good faith, they may need to engage in motions practice
10 to resolve these disputes.

11 5. There are also three pending motions before the Court. (ECF Nos. 49, 58, and
12 82). A stipulation may resolve some or all of these disputed issues without the need for Court
13 intervention.

14 6. The parties thus propose that all case deadlines be stayed for 30 days to allow a
15 potential stipulation to be drafted, approved by the parties, and submitted for the Court's
16 approval. The parties propose that if they have not resolved all of their claims within 30 days,
17 they submit a report to the Court and propose a new schedule, the dates for which would depend
18 on the number of issues that remain unresolved.

19 7. Good cause exists for the request. It is made not to hinder or delay the
20 proceedings, but to allow the parties to finalize a potential stipulation. The parties have engaged
21 in initial discussions based on their review of the existing discovery record, including a four-
22 party conference call on March 9, 2018, and believe that there is a real possibility of at least
23 partial settlement. Focusing their energies on further negotiations could save the parties
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significant time and expense, especially with respect to depositions, and may save the Court's resources as well.

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1 WHEREFORE, the parties respectfully propose that all pending deadlines be stayed for
2 30 days to allow the parties to discuss a partial or complete settlement. If all claims are not
3 resolved within 30 days, the parties will submit a report to the Court and propose appropriate
4 scheduling deadlines for any issues not resolved.

5 Respectfully submitted this 14th day of March 2018.
6

7 RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

KIM GILBERT EBRON

8 /s/ E. Carmen Ramirez

9 VIRGINIA CRONAN LOWE
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/s/ Diana Cline Ebron

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19 *Attorneys for Capital One, N. A.*

*Attorneys for Anthem Country Club
Community Association*

21 IT IS SO ORDERED

22 Dated: March 21, 2018.

23 
24 RICHARD F. BOULWARE, II
United States District Court

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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing has been made this 14th day of March, 2018, via the Court's ECF system to all current parties who have appeared electronically.

Service is made on defendant Leon Benzer by U.S. Mail at the following address:

Leon Benzer- 47521-048
FCI Big Spring
Federal Correctional Institution
1900 Simler Ave
Big Spring, TX 79720

/s/ E. Carmen Ramirez
E. CARMEN RAMIREZ
Trial Attorney, Tax Division
U.S. Department of Justice